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8 **UNITED STATES DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 ROBERT GREENE, on behalf of himself and )  
11 all others similarly situated, )

12 Plaintiffs, )

13 v. )

14 ALAN WAXLER GROUP CHARTER )  
15 SERVICES, LLC dba AWG CHARTER )  
16 SERVICES, a Nevada Limited Liability )  
17 Company, Does 1-50, inclusive, )

18 Defendants )

19 SAM BAUM, et al., )

20 Plaintiffs, )

21 v. )

22 ALAN WAXLER, et al., )

23 Defendants. )

Greene v. Alan Waxler Charter Services  
Case No.: 2:09-CV-00748-JCM-RJJ  
Consolidated with:  
Baum, et. al. v. Alan Waxler, et. al.  
Case No.: 2:09-CV-0914-LDG-PAL

**ORDER DENYING**  
**MOTIONS FOR SUMMARY**  
**JUDGEMENT and MOTION TO**  
**CERTIFY CLASS WITHOUT**  
**PREJUDICE**

24 Before the Court is Plaintiffs' Joint Motion for Class Certification (Doc. #73),  
25 Defendant AWG's Motion for Summary Adjudication (Doc. #70), and Plaintiffs' Cross-  
26 Motion for Summary Adjudication (Doc.#82), with Plaintiffs represented by Jason Kuller,  
27 Esq. and Kyle Smith, Esq., and Norman Kirshman appearing on behalf of Defendant  
28

1 AWG. The Court having considered the pleadings, evidence, and arguments of counsel  
2 presented at hearing on these matters on November 30, 2011, and good cause appearing,

3 THE COURT HEREBY ORDERS THAT:

- 4 1. Plaintiffs' Joint Motion to Certify Class (Doc. #73) is DENIED without  
5 prejudice. The Court finds that Plaintiffs have failed to demonstrate numerosity  
6 of class members at this stage.
- 7
- 8 2. Defendant AWG's Motion for Summary Judgment (Doc. #70) is DENIED  
9 without prejudice. The Court finds that Defendant has not demonstrated  
10 entitlement to the Motor Carrier Act exemption in light of the Safe,  
11 Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users  
12 ("SAFETY-LU") and the SAFETY-LU Technical Corrections Act of 2008.  
13 The Court further finds that Plaintiffs' state-law causes of action under NRS §§  
14 608.016, 608.040, and the Nevada State Constitution art. 15, § 16(B), are viable  
15 as a matter of law. Otherwise, the Court finds fact issues remain precluding  
16 summary adjudication.
- 17
- 18 3. Plaintiffs' Cross-Motion for Summary Adjudication (Doc. #82) is DENIED  
19 without prejudice. Although the Court finds that Plaintiffs' state-law claims are  
20 legally viable, Plaintiffs have not demonstrated their entitlement to summary  
21 adjudication on these claims.  
22

23  
24 DATED this 20 day of December, 2011.

25  
26   
27 U.S. DISTRICT COURT JUDGE  
28 JAMES C. MAHAN

1  
2 Respectfully submitted & reviewed by:

3 By: /s/ Kyle Smith

4 **KYLE SMITH, ESQ.**

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8 *Attorneys for Plaintiffs Baum, et al.*

9 By: /s/ Jason Kuller

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